

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BLACK LIVES MATTER SEATTLE-KING COUNTY, ABIE EKENEZAR, SHARON SAKAMOTO, MURACO KYASHNA-TOCHA, ALEXANDER WOLDEAB, NATHALIE GRAHAM, AND ALEXANDRA CHEN.

Plaintiffs.

VS.

CITY OF SEATTLE,

Defendant.

No. 2:20-CV-00887 RAJ

DECLARATION OF THOMAS
MAHAFFEY IN SUPPORT OF
DEFENDANT CITY OF SEATTLE'S
RESPONSE TO PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER

I, Thomas Mahaffey, hereby declare as follows:

1. I am over the age of eighteen years and am a citizen of the United States. I have personal knowledge of the facts set forth herein and am competent to testify to them at trial.
2. I am and was at all material times hereto the Assistant Chief of Patrol Operations for the City of Seattle Police Department (“SPD”).

DECLARATION OF THOMAS MAHAFFEY IN SUPPORT
OF DEFENDANT CITY OF SEATTLE'S RESPONSE TO
PLAINTIFFS' MOTION FOR TRO (20-cv-00887RAJ) - 1

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3. I am a twenty-six-year veteran of SPD, holding the permanent rank of Captain, which I held for two and a half years prior to my promotion to Assistant Chief on February 24, 2020. I served most recently as Commander of the West Precinct from September 2017 – February 24, 2020.

4. During my time with SPD, I have served as Incident Commander for many public demonstrations and marches, including other political or social justice protests, such as various May Day events. The Incident Commander commands and coordinates police operations during demonstrations or marches.

5. As the events in Seattle unfolded over the last 13 days, I assisted in the management of the demonstrations in my capacity as Assistant Chief of Patrol until June 1, when I assumed the role of Incident Commander in charge of SPD's operations of the protests and demonstrations members of our community have participated in, concerning both the death of George Floyd in Minneapolis, Minnesota on May 25, 2020, and other surrounding race inequality.

6. While events unfolded nationally immediately following Mr. Floyd’s death, demonstrations began in Seattle on May 29, 2020. At that time, as it does for all major events, SPD mobilized the Seattle Police Operations Center (“SPOC”) and planned for staffing and managing the demonstrations in the City. In the course of managing these fluid and dynamic events, SPD received reliable intelligence from other agencies of intent to destroy buildings in Seattle.

7. SPD's priorities for the managing the events beginning on May 29th and continuing through the present have remained consistent. SPD's first objective was to provide for the safety of the general public, demonstration participants, spectators, first responders, and other participant's general safety, while facilitating the free speech rights under the First

1 Amendment, during this state-wide state of emergency due to Covid-19. SPD also will take
2 enforcement action in addressing violent crimes committed against persons, or in the face of
3 significant property damage, while ensuring arrests for such crimes are carried out in a
4 manner that is safe and effective and in accordance with training and law. Within these
5 events, SPD also seeks to deter criminal activity, protect public and private property with a
6 significant uniformed presence of officers, and, as required, minimizing the disruption to
7 traffic through the use of traffic diversion.

- 8 8. In so managing these and other crowd management events, SPD does not send sworn
9 personnel to all protests or demonstrations. Determinations about when sworn personnel are
10 assigned, and how many officers are assigned, depends on a variety of factors, but the size
11 of the demonstration is a key factor in that decision.
- 12 9. I am aware that Plaintiffs seek to enjoin SPD from the use of certain crowd management
13 tools commonly referred to as less lethal tools, which include blast balls, flash bangs, CS gas
14 and OC spray. As it concerns the use of any less lethal tools in crowd management, Title 8
15 of the SPD manual, and also SPD's crowd management policy, governs their use.
- 16 10. Prior to the deployment of any less lethal tools, SPD first attempts to manage the event
17 without their use, whenever possible, while balancing that priority against the need to secure
18 public and officer safety. In past years, when it has been required at past demonstrations or
19 marches based on conditions at the scene, less lethal crowd control tools have been utilized
20 on occasion as needed; this is not unique to the current demonstrations and marches.
- 21 11. As set forth in the timeline published by the SPD Public Affairs Unit, the following details
22 specific events that SPD encountered while managing these demonstrations and protests.
23 (See Truscott Dec.).

1 12. In the evening hours of May 29, 2020, demonstrations in Seattle turned violent. There was
2 significant property damage to the City, and both civilians and police officers were hit with
3 rocks and other items, incurring injuries.

4 13. On May 30, 2020, demonstrators marched peacefully for much of the day until chaos ensued
5 in the afternoon, resulting in significant property damage, multiple arson events (fires
6 damaging, and also destroying both city and private property), theft, and injuries to
7 community members and law enforcement.

8 14. On May 31, 2020, I requested authorization from Chief Best to enable patrol to use CS Gas
9 in the necessary event of crowd disbursement otherwise consistent with SPD policy,
10 following two days of depleting less-lethal tools available SPD officers as they managed the
11 significant violence, property damage and injuries to police and other civilians during the
12 events of May 29 and 30. This request was authorized by Chief Best.

13 15. Beginning May 31, 2020, much of the demonstration focus shifted between downtown to the
14 area around the East Precinct. While demonstrations were largely peaceful, specific incidents
15 of officer injuries occurred, as officers continued to be hit with rocks, bottles, OC spray,
16 fireworks, and other projectiles.

17 16. Largely peaceful demonstrations were also interrupted by specific instances of unrest and
18 violence on June 1, 2020 and June 2, 2020.

19 17. Based on my assessment of preliminary reports, on June 1, 2020, there were several
20 explosions (suspected fireworks) being deployed by the crowd toward officers. Officers
21 employed several dispersal orders that were not heeded. *Id.* As such, officers deployed less
22 lethal force by use of a chemical irritant.

1 18. Based on my assessment of preliminary reports, on June 2, 2020, Officers continued being
 2 hit by bottles, rocks, and other projectiles during otherwise peaceful demonstrations. As
 3 officers attempted to manage and ensure the safety of the peaceful protestors, they also had
 4 lasers pointed at their eyes and were hit by projectiles coming from rooftops/above-ground
 5 during these days.

6 19. From June 3, 2020 through June 5, 2020, demonstrators were concentrated near the East
 7 Precinct.

8 20. Based on my assessment of preliminary reports, while SPD attempted to manage peace
 9 within the crowd with greater barrier space between officers and demonstrators, Officers still
 10 incurred injuries from water and soda bottles, paint, and other projectiles. Regardless, there
 11 were minimal arrests and deployment of less lethal tools.

12 21. On June 5, 2020, SPD issued a departmental directive prohibiting the use of CS gas except
 13 the following circumstances: “Where SWAT is on-scene, consistent with Manual Section
 14 14.090(4), SWAT will follow all department policies and procedures regarding the use of
 15 specialty tools, to include the use of CS gas, in life-safety circumstances and consistent with
 16 training. In such instances, and until further notice, any deployment must be approved
 17 by the Chief or the Chief's designee.” (emphasis in original)

18 22. Based on my assessment of preliminary reports, on June 6, 2020, there was a largely peaceful
 19 protest day until conflict arose when demonstrators refused to retreat from the police
 20 barricade around the East Precinct at approximately 7:30 p.m.

21 23. Based on my assessment of preliminary reports, at around 7:22, the crowd of demonstrators
 22 approached and started to push the line of officers back 15 then 20 feet. SPD wanted to
 23 reestablish the line before officers were pushed farther. Several unheeded announcements

were made before SPD moved forward to reestablish the line. Members of the crowd then began to throw items at officers and tried to take fencing from SPD, which resulted in OC spray and blast balls being deployed. SPD officers continued to be hit by glass bottles, fireworks, and improvised explosives. Multiple officers were injured and some required medical treatment by the Seattle Fire Department. After that encounter, the violence continued, and officers were reportedly hit by various projectiles such as bottles, and had several lasers and strobe lights directed at their eyes.

24. Based on my assessment of preliminary reports, on June 7, 2020, at around 10:10 p.m., officers on the ground observed that members of the crowd near the East Precinct broke and weaponized protective fencing. Concurrently, officers also observed another group of about 20 individuals possessing shields, helmets, and gas masks attempted to create a disturbance, while the crowd advanced slowly. SPD officers on scene also identified a possible IED nearby. Officers reported seeing items that some individuals were taking out of their bags and setting on the ground, including walkie talkies. Several specific warnings and dispersal orders were given to the crowd to cease advancing. The crowd advanced to within 5 feet of the officers, and while Officers continued to issue dispersal orders that went unheeded, they did not use less lethal devices at this time. SPD received a report of a white male individual in possible possession of a gun in his front pocket. The crowd continued to advance, while some crowd members flashed lights into officers' eyes. A physical disturbance was also reported to have developed in the front of the crowd between and amongst the demonstrators. Meanwhile, other demonstrators continued to throw items at National Guard and officers – include one un-lit Molotov cocktail and a water bottle filled with chemical irritants. Officers continued to advise the crowd to move back. The crowds began to block 13th and Pine with

1 rocks, boulders, and trash bins – which was the designated safe entry/exit point for SPD.
2 There was a report of a man with a gun in the area. The crowd also brought wooden shields
3 with nails in the front of the line. Continued dispersal orders were given, and largely
4 unheeded, while officers were being hit with fireworks, bottles, and projectiles causing
5 officer injury. OC and blast balls were deployed. Concurrently, the crowd began to surround
6 officers from three sides while continuing to throw fireworks and bottles at the officers.

7 25. Just after midnight on June 8, 2020, due to the life-safety circumstances presented to the
8 surrounded officers, CS gas was authorized and deployed per the amended policy, dispersing
9 the crowd for some time, but demonstrators remained in the area. Officers continued to be
10 hit with bottles and other projectiles, with other reports of armed individuals in the area.
11 There were also several dumpster and bonfires lit in the area.

12 26. During the day on June 8, 2020, SPD opened the area around the East Precinct for
13 demonstrators, boarding up the precinct and reducing police presence in the area. There has
14 not been any deployment of less lethal crowd control measures since that date, despite daily
15 demonstrations.

16 27. On June 9, 2020, there were demonstrations and/or marches in various places, including near
17 East Precinct, the greater Capitol Hill area, and inside City Hall for a number of hours in the
18 evening. None of the less lethal tools described above were utilized in the SPD response to
19 any protests, demonstrations or marches.

20 28. On June 10, 2020 there were again a variety of protests or marches throughout the City,
21 including outside three of the five police precincts. Again, none of the less lethal tools
22 described above were utilized in the SPD response to any protests, demonstrations or
23 marches.

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1 I declare under penalty of perjury under the laws of the State of Washington that the foregoing
2 is true and correct.
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4 DATED this 11th day of June, 2020, in Seattle, Washington.
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6 */s/ Thomas Mahaffey*
7 ASSISTANT CHIEF THOMAS MAHAFFEY
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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Jennifer Litfin
Legal Assistant

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